

AO 91 (Rev. 08/09) Criminal Complaint

UNITED STATES DISTRICT COURT

for the
Southern District of Ohio

United States of America

v.

James O. Napier

Defendant(s)

Case No.

FILED
JAN 16 2013
JOHN P. HEHMAN, Clerk
CINCINNATI, OHIO

13 mj

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of 7/1/09-1/1/10 & 7/25/10 in the county of Hamilton in the
Southern District of Ohio, the defendant(s) violated:

*Code Section**Offense Description*

18 U.S.C. 2251(a)
18 U.S.C. 2252(a)(2)

Production of Child Pornography
Distribution of Child Pornography

This criminal complaint is based on these facts:

See attached Affidavit.

☒ Continued on the attached sheet.*Complainant's signature*

Eric M. Proudfoot, SA FBI

Printed name and title

Sworn to before me and signed in my presence.

Date: 1/16/2013*Judge's signature*City and state: Cincinnati, Ohio

Hon. Stephanie K. Bowman, U.S. Magistrate Judge

Printed name and title

AFFIDAVIT IN SUPPORT OF
A CRIMINAL COMPLAINT

I, Eric M. Proudfoot, a Special Agent with the Federal Bureau of Investigation, being duly sworn, depose and state as follows:

INTRODUCTION

1. I have been employed as a Special Agent of the Federal Bureau of Investigation since March 2, 2008, and am currently assigned to the Cincinnati Division. While employed by the Federal Bureau of Investigation, I have investigated federal criminal violations related to high technology or cyber crime, child exploitation, and child pornography. I have gained experience through training at the Federal Bureau of Investigation and everyday work relating to conducting these types of investigations. As a federal agent, I am authorized to investigate violations of United States laws and to execute warrants issued under the authority of the United States.

2. I make this affidavit in support of an application for a criminal complaint and arrest warrant for James O. Napier, for violations of Title 18, United States Code, § 2251(a) sexual exploitation of children by production of a visual depiction involving the use of a minor engaging in sexually explicit conduct with an interstate nexus, and Title 18, United States Code, § 2252(a)(2) distribution and receipt in interstate commerce of a visual depiction involving the use of a minor engaging in sexually explicit conduct with an interstate nexus. The statements in this affidavit are based in part on information provided by Special Agent Deidre L. Gotjen, working at the Phoenix Division of the Federal Bureau of Investigation; Computer Forensic Examiner Ervin R. "Skip" Burnham of the Federal Bureau of Investigation's Miami Valley Regional Computer Forensic Laboratory in Centerville, Ohio; Special Agent Pamela S.

Kirschner of the Cincinnati Division of the Federal Bureau of Investigation; and on my investigation of this matter.

3. Because this affidavit is being submitted for the limited purpose of securing an arrest warrant, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause to believe that James O. Napier has committed violations of Title 18, United States Code, § 2251(a) and §2252(a)(2).

STATUTORY AUTHORITY

4. This Complaint is based on alleged violations of Title 18, United States Code, § 2251(a) (Sexual exploitation of children involving production of a visual image) and Title 18, United States Code, §§ 2252(a)(2) (distribution and receipt in interstate commerce of a visual depiction involving the use of a minor engaging in sexually explicit conduct).

Title 18, United States Code, §2251(a) provides in pertinent part that:

Any person who employs, uses, persuades, induces, entices, or coerces any minor to engage in, or who has a minor assist any other person to engage in, or who transports any minor in or affecting interstate or foreign commerce, or in any Territory or Possession of the United States, with the intent that such minor engage in, any sexually explicit conduct for the purpose of producing any visual depiction of such conduct or for the purpose of transmitting a live visual depiction of such conduct, shall be punished as provided under subsection (e), if such person knows or has reason to know that such visual depiction will be transported or transmitted using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce or mailed, if that visual depiction was produced or transmitted using materials that have been mailed, shipped, or transported in or affecting interstate or foreign commerce by any means, including by computer, or if such visual depiction has actually been transported or transmitted using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce or mailed....shall be punished...

Title 18, United States Code, §2252(a)(2) provides in pertinent part that:

Any person who knowingly receives, or distributes, any visual depiction using any means or facility of interstate or foreign commerce or that has been mailed, or has been shipped

or transported in or affecting interstate or foreign commerce, or which contains materials which has been mailed or so shipped or transported, by any means including by computer, or knowingly reproduces any visual depiction for distribution using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce or through the mails, if (A) the producing of such visual depiction involves the use of a minor engaging in sexually explicit conduct; and (B) such visual depiction is of such conduct...shall be punished...

DETAILS OF THE INVESTIGATION

5. On July 6, 2010, FBI Special Agent Deidre Gotjen, while acting in an online undercover capacity, observed a website advertising the sale of child pornography. SA Gotjen noted that on several occasions the username "kid" with an associated email address of "JONAPIER1992@GMAIL.COM" had posted several requests to trade videos and pictures on the website's guestbook page. Specifically, SA Gotjen noted the following posts on the associated dates and times: July 2, 2010 at 7:45:09 "looking to TRADE videos and pics. i have nearly 100 videos and thousands of pics. girls and boys all ages. only serious TRADERS reply. "JONAPIER1992@GMAIL.COM"

6. July 2, 2010 at 9:04:25 "there are a lot of BOGUS TRADERS!!!!!!!!!! looking for a free video. If you are not serious about TRADING!!!!!!!!!! do not contact me JONAPIER1992@GMAIL.COM"

7. July 2, 2010 at 12:19:46 "NO SERIOUS TRADERS ONLINE TODAY! I'LL TRY AGAIN SUNDAY! JONAPIER1992@GMAIL.COM"

8. July 4, 2010 at 7:14:13 "looking to TRADE videos and pics. i have plenty of both to TRADE!!!!!!!! i have girls and boys all ages. ONLY SERIOUS TRADERS REPLY!!!!!!!! JONAPIER1992@GMAIL.COM."

9. July 6, 2010 at 8:10:38 "I'm online looking to TRADE videos or pics! i have over 100 movies and over 6000 pics! ONLY SERIOUS TRADERS REPLY!

"JONAPIER1992@GMAIL.COM"

10. July 6, 2010 at 8:14:16 "ALSO: i have girls and boys (all ages) videos and pics to TRADE jonapier1992@gmail.com"

11. On July 6, 2010, at 3:30:06p.m. (Arizona Time) SA Gotjen, using email account "klrbbs@rocketmail.com" emailed "JONAPIER1992@GMAIL.COM" with the subject line "I'm serious" and the message "giga me." SA Gotjen corresponded several times via email with gmail user "JONAPIER1992" and on July 25, 2010 at 4:24:22a.m. (Arizona Time) "JONAPIER1992" sent "klrbbs" an email with an attached video file. SA Gotjen saved the attached file which is described below:

12. "47.wmv" This video is approximately 1 minute and 27 seconds in duration and the content appears to be a compilation of several sexually explicit videos of minor females engaged in sexual acts.

13. On July 27, 2010 SA Gotjen purposely sent "JONAPIER1992" a corrupted video file which "JONAPIER1992" would not be able to open.

14. SA Gotjen performed open source internet queries for the username "JONAPIER1992" and found that "JONAPIER1992" had user profiles on AdultSpace.com and FootFetishTube.com. According to AdultSpace.com, "JONAPIER1992" has been a member since July 8, 2007 and listed the following personal information on his profile: Age: 36; State: Ohio; Region: Hamilton County; Job: musician; Star sign: Pisces; Town: Cincinnati; Zip: 45205.

15. SA Gotjen, using open-source internet, located the username "JONAPIER1992" on the website "FootFetishTube.com". This website profile listed the user's hometown as Cincinnati, Ohio.

16. On November 15, 2010, SA Gotjen, using open-source internet, searched for the username "JONAPIER1992" on the social networking website "MySpace.com" and discovered that the listed name for user "JONAPIER1992" on MySpace was "J Kid". MySpace profile information also listed that J Kid to be from Cincinnati, Ohio.

17. On November 15, 2010, SA Gotjen, using open-source internet, searched the social networking website "Facebook.com" for "J O Napier" and found a page under the name, "JAMES NAPIER". The user of this profile listed his city and state as Cincinnati, Ohio.

18. On November 15, 2010, SA Gotjen, using open-source internet, searched the website "Reunion.com" for "JAMES O. NAPIER" and found one JAMES O. NAPIER located in Cincinnati, Ohio.

19. SA Gotjen then performed a search of the Accurant consumer reporting databases, found a JAMES O. NAPIER, date of birth March 8, 1974, with a listed address of at 1820 Sunset Avenue, Apt. 5, Bldg A, Cincinnati, OH.

20. SA Gotjen compared photographs of the male depicted in JAMES O. NAPIER's Ohio Driver's License photograph to the male depicted in photos located on the aforementioned websites AdultSpace.com; MySpace.com and Reunion.com. and confirmed that they appeared to be the same individual based on physical features.

21. On February 2, 2012, your affiant, using investigative case information provided by SA Gotjen of the FBI Phoenix Division, served an Administrative Subpoena to Google Legal Investigations Support for subscriber information pertaining to the username/account "JONAPIER1992". Results returned to your affiant revealed that one of the IP addresses used to access the user account was assigned to Time Warner Cable.

22. On June 21, 2012, your affiant received information pursuant to an Administrative Subpoena to Time Warner Cable indicating that IP address 75.186.34.15 was assigned to the following individual on January 9, 2012 at 9:00 a.m., 12:00 p.m., 3:00 p.m., and 9:00 p.m.:

Subscriber Name: James Napier

Address: 1820 Sunset Avenue, Apt. 5A

Cincinnati, Ohio 45238-3161

Phone: (513) 546-7957

User Name: Account Closed, No Longer Available

Length of Road Runner Service: 06/18/2011 - 03/13/2012

Method of Payment: Visa

23. A search by your affiant of the Ohio Law Enforcement Gateway system (OHLEG) for JAMES NAPIER returned a positive match for one JAMES NAPIER with a listed address of 1820 Sunset Ave, Apt. 5A, Cincinnati, Ohio 45238.

24. After attempting to locate and interview JAMES O. NAPIER in person, your affiant and FBI SA Pamela S. Kirschner located and interviewed Cooperating Witness 1 (hereafter CW1) who is in a position to testify and who has had personal knowledge of JAMES

O. NAPIER from approximately March 2007 to the present time. CW1 advised that JAMES O. NAPIER resided with CW1 between approximately April 2008 until March 2012.

25. CW1 advised that between April 2008 and March 2012, JAMES O. NAPIER had unrestricted use of CW1's personal computer, described as an ACER "Aspire" desktop personal computer by virtue of NAPIER's co-habitation with CW1. CW1 personally observed JAMES O. NAPIER using CW1's computer on more than one occasion during the time when JAMES O. NAPIER resided with CW1.

26. CW1 further advised that JAMES O. NAPIER uses a CRICKET WIRELESS mobile smart-phone, and that NAPIER pays approximately \$30 cash each month for continued use. CW1 states that there is no contract for the service, and that NAPIER uses the pre-pay option. CW1 advised that NAPIER has internet access through this cellular phone.

27. CW1 advised that JAMES O. NAPIER uses the e-mail address "JONAPIER74@YAHOO.COM".

28. CW1 advised that JAMES O. NAPIER uses the e-mail address "JONAPIER1992@GMAIL.COM".

29. CW1 advised that JAMES O. NAPIER uses the nicknames "J-KID" and "KID JAMES".

30. CW1 advised that JAMES O. NAPIER has a profile on ADULTSPACE.

31. CW1 advised that JAMES O. NAPIER has a MYSPACE social networking profile.

32. CW1 advised that JAMES O. NAPIER is into "feet porn" and used to view "FOOT FETISH TUBE" or something similar to that name.

33. CW1 provided the FBI consent to search the computer, previously described in paragraph 26, belonging to CW1 and known to have been used by JAMES O. NAPIER between April 2008 and approximately June 2011. Forensic analysis of this computer by Task Force Officer Skip Burnham FBI Miami Valley Regional Computer Forensic Laboratory returned approximately 238 images depicting child pornography, three (3) recovered deleted images depicting child pornography, two (2) recovered deleted videos depicting child pornography, references to the email account JONAPIER1992@GMAIL, and references to a file titled "47.wmv".

34. Among the child pornography images discovered on CW1's computer were fifteen (15) images of a young African-American female, aged approximately 10-months to 18 months old, (hereafter Child Victim 1), which appeared to have been taken with a digital camera and subsequently transferred onto CW1's computer. The file names of these photographs begin with the prefix "DSCI" and appear to be consecutively numbered beginning with "DSCI4222" through "DSCI4231" and "DSCI4236" through "DSCI4240". Images "DSCI4232" through "DSCI4235" were not recovered during forensic analysis. A listing and description of the produced photographs follows:

File Name	Description
DSCI4222	Image depicts African-American infant's naked butt and feet. Infant is lying on her stomach with her knees drawn up on either side of her body.
DSCI4223	Image depicts a close-up photograph of an unclothed, African-American infant's butt cheeks being spread apart by an adult hand, exposing the infant's anus and genital area.
DSCI4224	Image depicts an adult penis attempting to be inserted into an unclothed African-American infant's anus region. Infant is laying face-down.

DSCI4225	Image depicts an adult penis attempting to be inserted into an African-American infant's naked anus. Infant is laying face-down. Subject's right leg is visible in frame.
DSCI4226	Image depicts an adult penis held near the right foot of an African-American infant who appears to be lying face-down
DSCI4227	Image depicts an unclothed, African-American female infant lying face-down with genitals exposed.
DSCI4228	Image depicts an unclothed, African-American female infant lying on her back, with legs up in the air exposing her genital area and anus.
DSCI4229	Image depicts an African-American infant lying on her stomach between the legs of an African-American adult male, with the adult male's penis being thrust into the infant's face.
DSCI4230	Image depicts an African-American infant lying on her stomach between the legs of an African-American adult male, with the adult male's penis being thrust into the infant's face.
DSCI4231	Image depicts an African-American infant lying on her stomach between the legs of an African-American adult male, with the adult male's penis being thrust into the infant's face.
DSCI4236	Image depicts an unclothed, African-American female infant lying on her back, with legs up in the air exposing her genital area and anus.
DSCI4237	Image depicts an unclothed, African-American female infant lying on her back, with legs spread. An adult's left hand is spreading her genital area apart, exposing her vagina.
DSCI4238	Image depicts an African-American female infant lying on her back, with her left leg held up towards the camera by an adult's hand. The infant's right foot is visible in the picture frame.
DSCI4239	Image depicts an unclothed, African-American female infant lying on her back, with legs spread, exposing her genital area and anus.
DSCI4240	Image depicts an unclothed, African-American female infant lying on her back, with legs up in the air exposing her genital area and anus.

35. On January 11, 2013, your affiant asked CW1 to identify Child Victim 1 by viewing a combination of non-child pornography images and one sanitized pornographic image ("DSCI4230") recovered from CW1's computer. CW1 positively identified Child Victim 1 to be CW1's niece and estimated Child Victim 1's age in the pornographic image to be between approximately 10-18 months. The child would have been this approximate age during the summer of 2009.

36. On January 12, 2013, CW1 was shown image "DSCI4231", recovered from CW1's computer and described in paragraph 34. CW1 was shown this image from the series

referenced above for purposes of subject identification. CW1 recognized a small scar/discoloration on the inside of the subject's right thigh visible in the image. CW1 identified the leg with the scar/discoloration in the image to be that of JAMES O. NAPIER's.

37. On January 12, 2013, CW1 was also shown image "DSCI4239", recovered from CW1's computer and described in paragraph 34. Several background items are visible beyond Child Victim 1's head. CW1 was shown this image from the series referenced above for purposes of background identification and subject identification. CW1 positively identified the following background items in the image as belonging to or having been located in CW1's bedroom during late 2009 through approximately mid-2010: a tan/white bed cover/comforter; light brown semi-sheer drapes; and a white, plastic laundry basket/clothes hamper.

38. Public records report accessed through Lexis-Nexis, a public records database that can be accessed and searched over the Internet, for James O. Napier shows a full name of James O. Napier, social security account number XXX-XX-6480, date of birth XX-XX-1974, and an active address of 1850 Chase Avenue, Apartment B2, Cincinnati, Ohio 45223. The first five digits of the social security account number, and the month and day of the date of birth have been redacted for the purposes of this affidavit. Department of Motor Vehicle records indicate that James O. Napier has a suspended Ohio Driver's License, number RQ630624. Napier's driver's license information lists a home address as 1820 Sunset Avenue, Apartment 5A, Cincinnati, Ohio 45069, which your affiant knows to be a previous address.

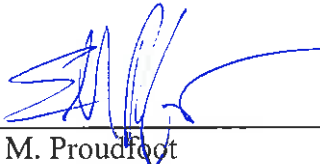
39. CW1 provided information during an interview with your affiant on October 12, 2012 and again during an interview with your affiant on January 12, 2013 that James Napier may be residing with a former girlfriend "C.A." at 4959 Winneste Avenue, Cincinnati, Ohio 45232.

CONCLUSION

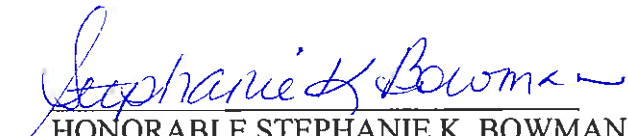
40. Based on the aforementioned factual information, your affiant respectfully submits that there is probable cause to believe that James O. Napier, born XX-XX-1974, produced child pornography between July 1, 2009 and July 1, 2010, and distributed child pornography on July 25, 2010, in violation of Title 18, United States Code, §§ 2251(a) and 2252 (a)(2), respectively. Therefore, I respectfully request the issuance of a warrant for the arrest of James O. Napier.

REQUEST FOR SEALING

41. 11. I Further request that the Court order that all papers in support of this complaint, including the affidavit, be sealed until further order of the Court. These documents discuss an ongoing criminal investigation that is neither public nor known to all the targets of the investigation. Accordingly, there is good cause to seal these documents because their premature disclosure may seriously jeopardize the investigation.


Eric M. Proudfoot
Special Agent
Federal Bureau of Investigation

Sworn and subscribed before me this 15th day of January, 2013.


HONORABLE STEPHANIE K. BOWMAN
UNITED STATES MAGISTRATE JUDGE